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Letter dated 16 May 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from Andorra submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 15 May 2006 from the Permanent Representative of Andorra to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

At the request of my Government, I have the honour to transmit to you the fifth report submitted by the Principality of Andorra to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) and Security Council resolution 1624 (2005) (see enclosure).

My Government will be happy to provide the Committee with such additional information as it considers necessary.

(*Signed*) Julian **Vila-Coma**
Ambassador, Permanent Representative

Enclosure

[Original: French]

Responses to the observations and questions concerning the content of the fifth report submitted pursuant to Security Council resolution 1373 (2001)

Introduction

In accordance with its obligations under paragraph 6 of Security Council resolution 1373 (2001), the Government of Andorra submitted a detailed report on 21 December 2001. In response to the request of the Committee contained in its letters of 1 April 2002, 7 April 2003 and 15 November 2004, three additional reports providing further details on points raised earlier were submitted on 10 September 2002, 10 May 2004 and 14 February 2005.

This report, which is the fourth supplementary report of the Government of Andorra, replies to the questions raised by the Committee in its letter of 13 February 2006.

Once again, the report has been prepared in close collaboration with all the ministries concerned, namely, the Ministry of Finance, the Ministry of the Interior and Justice and the Ministry of Foreign Affairs, and with the participation of the Money-Laundering Prevention Unit.

We remain entirely at the disposal of the Counter-Terrorism Committee and will be happy to provide the Committee with any additional information that may be necessary.

1. Implementation measures

1.1 List of United Nations counter-terrorism conventions

On 15 December 2005, the Andorran Parliament approved Andorra's accession to the following conventions:

(a) Convention on Offences and Certain Other Acts Committed on Board Aircraft (International Civil Aviation Organization (ICAO));

(b) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;

(c) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 23 September 1971;

(d) Convention on the Physical Protection of Nuclear Material (International Atomic Energy Agency);

(e) Convention on the Marking of Plastic Explosives for the Purpose of Detection (ICAO).

On 9 March 2005 the Andorran Parliament approved Andorra's accession to the following conventions:

(a) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (International Maritime Organization (IMO));

(b) 2005 Protocol to the Protocol of 10 March 1988 for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (IMO).

Andorra could therefore deposit the instruments of accession to the aforementioned conventions in a month or two.

With regard to the International Convention for the Suppression of Acts of Nuclear Terrorism, the Ministry of Foreign Affairs initiated the technical and legal procedures needed for its signature. The Council of Ministers recently approved its signing, which will take place in the coming months.

Lastly, the International Convention for the Suppression of the Financing of Terrorism, signed by Andorra on 11 November 2001, could be ratified once the legal and parliamentary procedures are completed.

1.2 Mechanisms available to the Andorran authorities for monitoring the conduct of charitable organizations

Article 29 of the Associations Organization Act of 29 December 2000 specifies that associations receiving public subsidies must account for their use to the awarding body. In cases where subsidies have been misused, the awarding body, in accordance with the terms and conditions of the award, must require the association to return the subsidy, without prejudice to any liability.

Charitable organizations are therefore subject only to financial monitoring of the use of the public funds awarded to them in the form of a subsidy. The Andorran authorities may, of course, conduct on-site inspections of their activities.

1.3 Does Andorra plan to introduce measures that would regulate the movement of cash and other means of payment?

Investigations of offences and prosecution and detention of offenders constitute an essential, priority and ongoing activity of the police, whether of its own initiative or on the application of others, and that entails, among other functions and services, effective border controls.

These border controls cover activities punishable under the current penal code, including activities related to the financing of terrorism and money-laundering.

In that connection, the border police may conduct physical checks on cash brought across the border.

At present, the Andorran Government does not plan to introduce any new measures in this area or amend the legislation in force.

1.4 Has Andorra defined the concept of political offence? What criteria are used in determining whether an offence is political? Are any of the offences mentioned in paragraph 2 (c) of resolution 1373 (2001) and in the international counter-terrorism instruments to which Andorra is a party deemed to constitute "political offences" under domestic law?

Andorra uses criteria generally accepted by the international community for the concept of political offence. In cases where a convention to which Andorra is a party specifies otherwise, however, once it enters into force, the offences specified in the said convention will no longer be considered to be political.

2. Implementation of resolution 1624 (2005)

2.1 What measures does Andorra have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Aware of the broadening scope of terrorism and the threat it poses, Andorran lawmakers, when drafting the Andorran new Penal Code in force since 23 September 2005, made an effort to fill existing gaps in domestic penal legislation by expressly introducing an article of general scope prohibiting incitement (article 19). Under that article, incitement occurs when a person directly incites others to commit an offence by publishing material, broadcasting radio programmes, or using any other means of similar efficacy in facilitating the dissemination of such material to a group of persons, if such actions actually result in the commission of a criminal offence.

More precisely related to cases of terrorism, article 364 of the new Penal Code provides that anyone who disseminates, by any means, an ideology or doctrine attempting to justify recourse to terrorism or to justify or glorify groups or organizations that practice or support terrorism shall be punishable under the law.

In any case, the Andorran system of criminal liability considers anyone who directly and knowingly incites another person or persons to commit an offence to be a principal.

2.2 What measures does Andorra take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

Article 5 of the Constitution of Andorra incorporates the content of the Universal Declaration of Human Rights as general principles of Andorran rights and freedoms. The drafters of the Constitution thereby gave constitutional status to the Declaration. Article 14 of the Declaration, which establishes the right to seek and enjoy asylum, is therefore incorporated into the Andorran legal system.

Anyone person seeking asylum in Andorra must follow the immigration application procedure in order to become a legal resident of Andorra. The application must be submitted to the Immigration Service (article 2 of the Immigration Service Decree of 16 October 2002). The application may, however, be rejected under the terms of the Immigration Organization Act of 14 May 2002; the

Decree provides for a background check on the person concerned, which may uncover grounds for denying an immigration permit.

In this regard, the police authorities (article 4 of the Immigration Service Decree) are competent to screen all applications, investigate immigration cases with respect to security, public order and residence and ensure that the situation of the applicants is in accordance with the law.

An immigration application from a person who has participated in the financing, organization, preparation or perpetration of terrorist acts, or an application from a person who has already been found guilty of incitement to commit one or more terrorist acts would be rejected if the background check reveals these facts. When an immigration application is refused, the applicant would then be asked to leave Andorra within a short time. If necessary, an order of expulsion or of escort to the border would be issued pursuant to articles 104 and 106 of the Immigration Organization Act of 14 May 2002.

This act lays down certain personal criteria to be met for an immigration permit to be granted; among other things, article 42 stipulates that an applicant for status as an immigrant should pose no danger whatsoever to the security of the State, persons or property, or to public order, and article 47 prescribes the denial of permits when documents or information are false or lacking (the same criteria apply to Andorran residents wishing to renew their immigration permits).

2.3 **How does Andorra cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?**

In December 2000 the Principality signed a Convention with France and Spain on the Movement and Sojourn in the Principality of Andorra of Nationals of Third States, article 2 of which provides:

> "The Contracting Parties shall undertake to coordinate their legislation on the entry and sojourn of nationals of third States taking into account their respective interests and international commitments.
>
> "To that end, the Contracting Parties shall regularly communicate to one another the list of third States whose nationals require a visa for transit or for sojourn of up to 90 days."

The only access to Andorra is by road through two points of entry: in the north, at the border between France and Andorra; to the south, at the border between Spain and Andorra. Therefore, individuals arriving in Andorra would already have crossed entry and exit checkpoints in our neighbouring countries.

This does not relieve the Andorran border police of the duty to screen those individuals again to ensure that they have the necessary travel documents.

Since the 11 September 2001 attacks, the Andorran police, with awareness heightened by the events that shocked the world, has strengthened its border controls in order to prevent potential terrorists from entering Andorra. In addition, the members of the police force have undergone training, in cooperation with the French and Spanish police forces, to improve their ability to detect falsified

documents. In doubtful cases, the Andorran police may consult the operational intelligence units to obtain information. Moreover, as a member of the International Criminal Police Organiz tion (Interpol), the Andorran police force has access to various Interpol databases through specially trained personnel available 24 hours a day.

Furthermore, the current immigration act mentioned earlier stipulates, with regard to border control, that one condition for entry into Andorra is that individuals must not pose a known serious threat to the security of the State, persons or property or to public order. In that regard, when conducting border checks officers must consult a police database listing, among other things, the names of natural and legal persons who are likely to be directly or indirectly linked to Osama bin Laden, Al-Qaida, members of the Taliban or to any other international terrorist group.

In order to prevent the counterfeiting of passports, Andorra follows the rules of the International Civil Aviation Organization (ICAO) regarding official travel documents. These rules have been followed since 19 April 1995, even before Andorra's formal adherence to the Convention on International Civil Aviation on 26 January 2001.

Since 19 April 2005 the Principality has issued new passports that comply with the ICAO security level I standards, and is working towards level II compliance.

These security measures allow for strict surveillance and prevent potential counterfeiting.

2.4 What international efforts is Andorra participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures?

In 2004, 2005 and 2006 the Government of Andorra funded 62 per cent of a UNICEF programme designed to lay the foundations for democracy in Bosnia and Herzegovina. The objective of the programme is to promote the teaching of democracy to the children of Bosnia and Herzegovina by eliminating the problems associated with coexistence and the stereotypes, prejudices and distrust that the war engendered among the different ethnic communities.

The programme is now being implemented in 210 schools and involves 35,000 students, 1,440 teachers, 910 members of teaching teams and 4,200 parents.

The total cost of the programme comes to one million euros, contributed by the Government of Andorra and the Andorran National Committee for UNICEF.

Moreover, in keeping with the agreement reached in Warsaw in May 2005 by the Heads of State and Government of the Council of Europe, Andorra is playing an active role in the Council of Europe Forum for the Future of Democracy to strengthen democracy, political freedoms and participation by civil society in political life.

The Minister for Foreign Affairs, Culture and Cooperation participates in international conferences on the issue. The Director of the Department of Culture recently attended the "Europe for Intercultural Dialogue" conference, held on 27 and 28 May in Granada, Spain. Earlier, in June 2005, Mr. Vicenç Mateu, the

Andorran Ambassador to Spain, attended an initial meeting in Madrid on the protection of cultural diversity. In addition, the Minister for Foreign Affairs and the Andorran Ambassador to France will soon attend the Ministerial Conference of la Francophonie on Conflict Prevention and Human Security being organized by the International Organization of la Francophonie (OIF) in Saint-Boniface, Canada.

At the OIF Ministerial Conference held in Antananarivo, the Minister for Foreign Affairs and his counterparts from the other member States undertook to ratify the UNESCO Convention on the Protection of the Diversity of Cultural Expressions. The Ambassador and the Deputy Permanent Representative were directly involved in drafting the Convention.

Andorra has also adopted more concrete measures. For example, the Andorran National Commission for UNESCO (CNAU) has established a group on inter-religious dialogue comprising representatives (approximately 12 individuals) of the country's various religious communities, a representative of the Ministry of Foreign Affairs, Culture and Cooperation and two members of the Commission. The group meets every two months for the purpose of discussing the current situation in the various religious communities, proposing joint activities and the like.

In 2006 the Andorran National Committee for the United Nations Decade of Education for Sustainable Development (2005-2014) will focus on cultural diversity. One project to be completed is an exhibition entitled "Andorra diversa" ("Andorra, Land of Diversity"), an outdoor photography exhibit designed to capture the essence of life in Andorra, whose people are of various origins, cultures and religions and practice various customs yet also have many things in common.

In 2007 the Committee would like to organize a national cultural diversity festival in cooperation with the Government, the municipalities, CNAU and Andorra's various cultural associations. The initiative has already been undertaken at the municipal level by the *comú* of Encamp, where an annual intercultural festival draws participants from the various associations representing the many and diverse cultures that coexist in Andorra.

In addition, in September 2005 the Ministry of Foreign Affairs helped to organize both a series of conferences in commemoration of the sixtieth anniversary of the liberation of the Nazi concentration camps and an exhibition on the life of Maimonides.

Andorra is also involved in the preparation of the Council of Europe white paper on intercultural dialogue, an instrument whose objective is to promote the democratic management of cultural diversity within European societies and between Europe and its neighbouring regions.

Lastly, one should note the large number of cultural associations representing various regions outside Andorra (associations of French, Portuguese, Andalusian, Galician and Catalunian residents, among others) in relation to the number of Andorran inhabitants. The members of the associations play a very active role, and the associations receive grants and facilities from the Government and the municipalities to help them organize events.

2.5 **What steps is Andorra taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?**

The new Penal Code of the Andorran legal system includes general provisions for combating terrorism; these were described in the country's previous reports. The Code also includes measures Andorra has taken to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters. Under article 338 of the Code, consideration of a natural person's birth, origin, nationality or ethnic identity, gender, religion, views on philosophical, political or trade union matters, or any other personal or social characteristic is held to be a discriminatory motive punishable by termination of employment and disqualification from practicing the profession or occupying the post for up to three years. Similarly, article 339 calls for the punishment of anyone who, publicly and with an intent to cause harm, commits acts or makes statements that are seriously offensive to members of a religious, national, ethnic, trade union or political group, or to persons who profess a particular belief or ideology. Moreover, anyone who seriously disrupts the operations of any public entity or educational institution, official proceedings or religious or cultural events shall be penalized.

In addition, the concept of an unlawful association has been expanded to apply to any entity that encourages discrimination or violence against individuals, groups or associations on the basis of birth, origin, nationality or ethnic identification, religion, views on philosophical, political or trade union matters, or any other personal or social characteristics.

However, the commission of any offence covered by the Penal Code constitutes an aggravating circumstance if it is motivated by racism or xenophobia, by the victim's ideological views, religion, nationality, ethnicity, gender, sexual orientation, or by a physical or psychological disability or illness of the victim.

2.6 **What is Andorra doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law and humanitarian law?**

The Principality intends to demonstrate its solidarity with the States Members of the United Nations in the fight against the scourge of terrorism by heeding the resolutions of the Security Council and the General Assembly, by acceding to the major international counter-terrorism conventions and by developing effective means of suppressing it that are consistent with international rights and obligations, in particular those enshrined in instruments relating to human rights, refugee law and humanitarian law.